

STATE OF NEW HAMPSHIRE
WATER COUNCIL

Docket No. 03-10 WC

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JUL 25 2005

Appeal of the Conservation Law Foundation
In re: Water Quality Certificate No. 2003-001

DEPARTMENT OF ENVIRONMENTAL SERVICES
RESPONSE TO THE CONSERVATION LAW FOUNDATION'S
MOTION TO CONTINUE

NOW COMES the New Hampshire Department of Environmental Services ("Environmental Services" or "DES"), by and through counsel, the Office of the Attorney General, and in response to the Conservation Law Foundation's ("CLF") Motion to Continue states as follows:

1. CLF seeks to continue the hearing scheduled for August 10, 2005 in this matter.
2. DES does not agree with all of the factual assertions in CLF's motion, and has objected to CLF's Motion to Compel.
3. However, DES would not object to a continuance if the matter can be rescheduled for September 14, 2005.
4. Undersigned counsel also represents DES in the Appeal of B & S Septic (Docket No. 05-02 WC) which is scheduled to be heard on September 14, 2005. Counsel believes the parties may be requesting a continuance or stay of the B & S Septic hearing, which would make the September 14 date available. Copies of this pleading are being sent to counsel for B & S Septic in an effort to resolve this issue.
5. DES joins in CLF's request that the Council seek legal advice on the issue of the effect on this proceeding of the expiration of the Department's procedural rules governing 401 certifications.

WHEREFORE, DES respectfully requests that the Water Council:

- A. Not continue the hearing, unless it can be rescheduled for September 14, 2005;
- B. Seek legal counsel with respect to the effect of the expiration of the procedural rules; and
- C. Grant such other relief as may be just.


Respectfully submitted,

THE STATE OF NEW HAMPSHIRE

By its attorneys,

Kelly A. Ayotte
Attorney General

Date: July 21, 2005

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing *Department of Environmental Services Response to the Conservation Law Foundation's Motion to Continue* was forwarded via first-class mail, postage prepaid, to counsel of record, Thomas F. Irwin, Esquire, Malcolm McNeill, Esquire and to Geoffrey J. Ransom, counsel of record in Appeal of B & S Septic, Docket No. 05-02 WC.

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Jennifer J. Patterson